United States Court of Appeals

for the Second Circuit

AMICUS BRIEF

ORIGINAL

75-7039

United States Court of Appeals
FOR THE SECOND CIRCUIT

JOSEPH M. SCOTT, SR.,

Plaintiff-Appellee,

against

NONNEWAUG REGIONAL SCHOOL DISTRICT NO. 14, ET AL.,

Defendants-Appellants.

ON APPEAL FROM THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF CONNECTICUT

BRIEF OF TOWN OF NEW HARTFORD AS *AMICUS CURIAE*

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BRIEF OF TOWN OF NEW HARTFORD AS *AMICUS CURIAE*

Preliminary Statement

The Town of New Hartford, in furtherance of the interests of its residents, electors and taxpayers, has moved for permission to file this brief and to argue as amicus curiae because of the significant salutary impact affirmance of the judgment below will have upon its people. For the same reason it successfully sought such permission, and participated in the proceedings, in the court below.

Briefly stated, the position of New Hartford is as follows:

1. It is one of four towns comprising Regional School District No. 7.

2. According to the 1970 census, its residents comprised 43% of the people in the district.

3. New Hartford contributes 43% of the children to the district schools.

4. By statute New Hartford must thus pay 43% of the district's expenses.

5. Its electors may choose only 25% of the members of the Regional Board of Education.

In this respect, therefore, each resident, taxpayer, and elector of the Town of New Hartford is similarly situated to the plaintiff Scott; and vindication of his constitutional rights would vindicate theirs.

This malapportionment is not compelled by any state statute; indeed, as the table of Connecticut regional school districts, their populations, and their board apportionments included in the Addendum to this brief (originally submitted by defendants in *Baker* v. *Regional High School*

District No. 5, the companion case hereto, Appendix p. 40a) discloses, the boards for District Nos. 17 and 18 *are* apportioned on the basis of "one person-one vote." Why the others are not—why, in fact, they all appear to grant equal representation regardless of town size—is doubtless due to the exigencies of political negotiation at the time the districts were formed: the larger towns, which on the committees to *create* the district were relegated to equal representations with each of the smaller towns, had to swallow malapportionment to achieve a regional school district. This compulsion, however, cannot stand as an excuse for depriving electors of their constitutional rights.

Thus it is that the decision of this Court will have a significant effect beyond the parties to this case. Because the people of New Hartford will so clearly benefit from this righting of a longstanding wrong, and because as a practical matter recourse to the courts is the only real remedy open to them (each town in a district may veto any attempt to change the regional board's apportionment), they submit the instant brief in support of affirmance.

ARGUMENT

I. One Person-One Vote Applies To Regional Boards of Education

A. The Powers of The Board

A necessary preliminary to discussing whether one person-one vote applies to the election of members to the defendant Board is an examination of the nature and powers of regional boards of education, of which the defendant Board is one, under Connecticut law; for it is the powers the Board *has, not* those it *lacks*, which are of crucial importance.

Regional school districts are authorized, their creation governed, their powers, duties and responsibilities pre-

scribed, and their incidents set forth exclusively in the Connecticut General Statutes in what is now Chapter 164, §§ 10-39 through 10-63i. A regional school district is a body politic and corporate. § 10-56. It is a quasi-municipal corporation. *Regional High School District No. 3* v. *Town of Newtown*, 134 Conn. 613, 620 (1948). Its powers include the power "to sue and be sued; to purchase, receive, hold and convey real and personal property for school purposes; and to build, equip, purchase, rent, maintain or expand schools." § 10-56. The district may also issue bonds upon the full faith and credit of the district and its member towns, in the manner and for the purposes prescribed by state statute. § 10-56.

This quasi-municipal body politic and corporate is governed by a regional board of education, which by statute is elective and which, also by statute, has "all the powers and duties conferred upon boards of education by the general statutes . . ." § 10-47. Like a town board of education, a regional board of education is an agency of the state. *Regional High School District No. 3* v. *Town of Newtown*, *supra*, at 617. Some of these powers are set forth in § 10-47 itself, which states as follows:

> Regional boards of education shall have all the powers and duties conferred upon boards of education by the general statutes not inconsistent with the provisions of this part. Such boards may purchase, lease or rent property for school purposes and, as part of the purchase price may assume and agree to pay any bonds or other capital indebtedness issued by a town for any land and buildings so purchased; shall perform all acts required to implement the plan of the committee for the transfer of property from the participating towns to the regional school district and may build, add to or equip schools for the benefit of the towns comprising the district. Such boards may receive gifts of real and personal property for the purposes of the regional

> school districts. The regional school district annual meeting shall be the district meeting at which the annual budget is first presented for adoption and shall be held the first Monday or the first Tuesday in May. The boards may convene special district meetings when they deem it necessary. District meetings shall be warned and conducted in the same manner as are town meetings. For such purposes, the chairman of the board shall have the duties of the board of selectmen and the secretary shall have the duties of the town clerk.

In the Addendum to this brief, we have provided a summary listing of the more significant powers of boards of education which, under § 10-47, a regional board of education would possess.

Turning to the area of finance, the powers of the regional board are awesome, partaking of powers which in municipalities are divided among several boards. The district, acting through its regional board of education, may issue bonds after approval by referendum, just as municipal legislative bodies do. The board may authorize bond anticipation notes for periods of up to four years, pursuant to § 10-56(c), and is permitted to treat the proceeds of these bonds or notes "in the same manner and to the same extent as permitted school districts or municipalities in chapter 112." § 10-56(d). Pursuant to the provisions of § 10-60, the board may also borrow money for periods of up to five years in addition to its power to issue bonds.

What is of particular significance in this catalogue of the board's bonding powers is the centrality of the board in this process. For while—as is the case in all Connecticut towns, whether for educational or other governmental purposes—the bond ordinances themselves must be *approved* by the voters of the district in a referendum, *whether* to propose a bond ordinance, for what *purpose, when,* for *how much,* and in what *form* are all within the sole and

exclusive jurisdiction of the regional board. The voters may ratify or disapprove; but *what* they ratify or disapprove is whatever the board decides to present to them.

In its budget-making powers, the board combines within itself all of the powers which in other towns are divided among the board of education, the board of selectmen, and the board of finance (see, e.g., §§ 10-222 and 7-344). Under § 10-51 it and it alone drafts and presents to the annual district meeting the budget for the next fiscal year. In districts of four towns or more the board may decide the method of voting at the annual meeting. If the meeting rejects the budget, the board alone redrafts and re-presents the budget for another vote. And when its budget is finally approved, it is the board which fixes the assessment each member town must pay. Payment of this sum may be compelled by judicial process, § 10-51a. In addition, the board is empowered to submit a supplementary budget if necessary. § 10-50a.

Here, too, the significance of these powers must not be permitted to pass without comment, for defendants make much in their brief of the budget-making process, and appear to be attempting thereby to deprecate the power of the board. To the contrary, however, what clearly emerges from defendants' own discussion is the very real power of the board. What becomes readily apparent from defendants' own discussion is the total control by the board over the *content* of whatever budget the district meeting receives for its consideration. The board alone has the exclusive power to initiate and to propose. Unlike legislative bodies or town meetings, the district meeting has only one power: to vote up or down whatever budget the board chooses to present to it, without amendment. If it chooses not to ratify a budget as presented, it sends it back to the board; and it is the board and the board alone which decides *whether* to amend the budget and *how* to amend it. The district meeting, then, has nothing more than a veto power.

Defendants put much emphasis on a claimed distinction between the "school district" and the "school board," and imply that the former has the significant power, not the latter. The distinction is ingeniously drawn, but wrong. In Connecticut, by statute (§ 10-240) each town is constituted a "school district" for purposes of providing education. The only other "school districts" permitted are regional school districts created in accordance with statutes; it is with these that this suit is concerned. So far as the powers of Connecticut's 169 town "school districts" are concerned, however, they are dependent upon the decisions of two bodies: the board of education and the town's budget-making authority, be it the town council, the board of aldermen, or the town meeting.

The town board of education exercises all the powers—be they "legislative," "executive," "administrative" or whatever—of the school district pursuant to the command of state statutes (e.g., §§ 10-220 and 10-221, cited in the Addendum to defendants' briefs); and these same powers are exercised by the regional boards of education. For financing, however, the town board goes through statutorily-prescribed steps, which may be different from town to town depending upon home rule charter provisions. In essence, the local board of education *proposes* a budget for itself; this then goes to the board of finance, which has the power to alter that budget; and this altered budget in turn goes to the town meeting or other budget-making authority, which has the power further to alter the original education proposal (General Statutes § 7-344). But through all of this defendants' vaunted "school district" is dependent upon the decisions of separate boards of people; and it does not act in a vacuum or by some metaphysical means as a "district;" it acts by and through organized bodies.

In regional districts the "power" of the "district" is equally exercised by delegates; but the position and power of the regional board of education is immeasurably en-

hanced. For in a regional district the board *and only the board* has any dispositive voice in the content of the district's budget. No board of finance, no town council, no board of aldermen can alter the regional board's budget. Not even the district meeting can do that. It can approve and it can reject, but only the board—if it chooses to do so—can alter.

With respect to bond ordinances, defendants would have one believe that the "district" controls this as well. However, as set forth above, the electorate has only one power (as does the electorate with respect to *municipal* bond issues): the power to ratify or disapprove. And this, it should be noted, is not done in any regular or special "district meeting" pursuant to § 10-47; it is done at a bond referendum.

And as far as the district meeting's authority with respect to collective bargaining agreements is concerned, here again the agreement is negotiated by the board; and the only opportunity a district meeting will have to pass upon it arises *if* the chief executive officer of a constitutent town requests that a meeting be called. (General Statutes § 10-153d).

Thus, the regional school board exercises the general management and control of all schools within its district. It employs and dismisses teachers in those schools. It makes contracts. It collects fees. It acquires property, builds and operates schools. It supervises and disciplines students. It alone drafts its own budget for consideration, unfettered by any other boards; and after the budget has been adopted, it and it alone assesses the mandatory contributions of the constituent towns.

B. Relevant Case Law

With this review of the nature and powers of the defendant Board, as a regional board of education, clearly in mind, we turn to an examination of the relevant case

law. We believe it is clear beyond peradventure that the applicability of the principle of one person-one vote to this board is compelled by the decision of the United States Supreme Court in *Hadley* v. *Junior College District of Metropolitan Kansas City,* 397 U.S. 50 (1970). There the Supreme Court held as follows (at page 56):

> We therefore hold today that as a general rule, whenever a state or local government decides to select persons by popular election to perform governmental functions, the Equal Protection Clause of the Fourteenth Amendment requires that each qualified voter must be given an equal opportunity to participate in that election, and when members of an elected body are chosen from separate districts, each district must be established on a basis which will insure, as far as is practicable, that equal numbers of voters can vote for proportionally equal numbers of officials.

The Court also expressly rejected any artificial distinction between elections for "legislative" officials and those for "administrative" officers. It stated (again at page 56):

> Education has traditionally been a vital governmental function, and these trustees, whose election the State has opened to all qualified voters, are governmental officials in every relevant sense of that term.

A review of the powers and duties of a regional board of education disloses its decisive impact on the people of the district, and clearly brings it within the intendment of the Supreme Court in *Hadley* that the board members

> perform important governmental functions within the districts and . . . these powers are general enough and have sufficient impact throughout the district to justify the conclusion that [one man-one vote] should be applied here.

Id., at 53-54.

Defendants again seek to deprecate the significance of the board. They claim it lacks "legislative" powers (misreading *Hadley,* which reiterated the lack of legal apportionment significance to be attached to artificial labels such as "legislative" and "administrative"). They base their claim of lack of legislative powers upon the fact that Connecticut statutes, unlike Vermont statutes cited in *Leopold* v. *Young,* 340 F. Supp. 1014 (D. Vt.; 1972), do not expressly vest in the regional board "the general powers given to the legislative branch of a municipality." It is respectfully submitted that after the long catalogue of powers set forth by statute and vested in the regional board (See Addendum to this brief and discussion *supra*) such a statement would have been redundant. To the most cursory reviewer of Connecticut regional boards' powers it must be apparent that they have as to their area of responsibility—the "vital governmental function," in Justice Black's phrase, of educating the district's youngsters—all the powers any board could have of a "legislative" nature short of the absolute, and hence undemocratic, power of a dictator.

While *Hadley* has served as the touchstone for all post-1970 decisions on application of one person-one vote to boards of education, the clear trend of the courts had been in that direction well before *Hadley.* In such cases as *Delozier* v. *Tyrone Area School Board,* 247 F. Supp. 30 (W.D. Pa.; 1965); *Strickland* v. *Burns,* 256 F. Supp. 824 (M.D. Tenn.; 1966); *Meyer* v. *Campbell,* 152 N.W. 2d 617 (Iowa, 1967; followed in 1971 in *Stanley* v. *Southwestern Community College Merged Area,* 184 N.W. 2d 29); *Oliver* v. *Board of Education of the City of New York,* 306 F. Supp. 1286 (S.D.N.Y.; 1969); and *Freeman* v. *Dies,* 307 F. Supp. 1028 (N.D. Tex.; 1969), both federal and state courts found the principle applicable both to city and to county-wide boards of education.

After *Hadley* was decided on February 25, 1970, the lower courts kept rapid pace. The one person-one vote

principle was found constitutionally required for the elective school boards in *Fahey* v. *Laxalt,* 313 F. Supp. 417 (D. Nev.; 1970); *Adams* v. *School Board of Wyoming Valley West School District,* 332 F. Supp. 982 (M.D. Pa.; 1970); *Mayes* v. *Teague,* 341 F. Supp. 254 (E.D. Tenn. N.D.; 1972); *Chargoris* v. *Vermilion Parish School Board,* 348 F. Supp. 498 (W.D. La.; 1972); and *Panior* v. *Iberville Parish School Board,* 498 F. 2d 1232 (CA-5; 1974).

Nothing in the most recent Supreme Court apportionment decisions, *Salyer Land Co.* v. *Tulare Water District,* 410 U.S. 719 (1973), and *Associated Enterprises, Inc.* v. *Toltec Watershed Improvement District,* 410 U.S. 743 (1973), in any way diminishes the force of those decisions or erodes the applicability of *Hadley* to school boards such as those involved here; indeed the Court in *Salyer* expressly mentioned *Hadley,* and distinguished the "special limited purpose" district having a "disproportionate effect of its activities on landowners as a group" from the ambit of *Hadley's* holding. *Id.*

Indeed, it may be that the arguments of *Hadley* have even greater force in the case at bar than they did for Missouri's junior college districts. For as the Court stated in *Dameron* v. *Tangipahoa Parish Police Jury,* 315 F. Supp. 137, 138 (E.D. La.; 1970), in applying one person-one vote to the parish school board:

> The only differences between the present case and the one presented in *Hadley* make this an even stronger case for reapportionment. The immediate importance to the individual voter of having equal representation on the board that runs the basic public school system of the Parish is much more obvious than his concern with the governance of the local junior college. The elected local school board traditionally exercises governmental authority over matters of utmost significance to all the people within its jurisdiction. It does not represent an experimental means of handling

> newly instituted state administrative matters, as the dissent in *Hadley* characterized the Missouri junior college districts.

This Court itself has recently recognized that boards of education, both district and county, must if elective be apportioned on the basis of one person-one vote. *Rosenthal* v. *Board of Education of Central High School District No. 3,* 497 F. 2d 726, 729 (CA-2; 1974). And while the Connecticut courts have not specifically passed upon the one person-one vote question as it applies to school boards, our federal court has, at least tangentially, held that principle applicable in its opinion in *LoFrisco* v. *Schaffer,* 341 F. Supp. 743, 747 (D. Conn.; 1972), affirmed, 409 U.S. 972 (1972). That case, dealing with the minority representation statute in the context of the Wilton board of education election, did not present for decision the one person-one vote issue. However, the court freely discussed *Hadley* at page 747, and concluded

> The Fourteenth Amendment one man-one vote principle clearly applies here.

In the face of this massive and ever-increasing weight of authority impelling a decision that one person-one vote must govern Connecticut's regional school boards, defendants place their trust in *Board of Education of Tri-Valley Central District No. 1* v. *Board of Cooperative Educational Services,* 37 App. Div. 2d 330, 325 N.Y.S. 2d 592 (1971), affirmed, 31 N.Y. 2d 1020, 341 N.Y.S. 2d 807 (1973), appeal dismissed, 414 U.S. 992. The New York courts held that the Board of Cooperative Educational Services, as established by state statute, was not such a board as to require the application of the one person-one vote principle. What distinguishes *Tri-Valley* from the case at bar, however—and from all of the other cases mandating "one person-one vote"—is (1) that the board itself was *not* a board of education, but a cooperative board designed to facilitate

sharing of various resource personnel, such as those listed in defendant Bethlehem's brief (p. 11) and (2) that the board's members were *not elected* by the voters, but rather were chosen by the board of education members from the constituent districts. Thus, the method of selection and the nature of the board were totally different from those of Connecticut's regional boards of education. *Tri-Valley* is completely inapposite.

Defendants also seek to establish what no case has yet held or even hinted at—that possession of "the power to tax" is a necessary prerequisite to requiring one person-one vote apportionment. They ignore the fact that neither the board in *Leopold* v. *Young,* 340 F. Supp. 1014 (D. Vt.; 1972) nor the board in *Powers* v. *Maine School Administrative District No. 1,* 359 F. Supp. 30 (D. Me., N.D.; 1973)—discussed *infra*—possessed such powers, yet were held to be subject to one person-one vote apportionment. They ignore the fact that the Wilton board of education involved in *LoFrisco* v. *Schaffer,* 341 F. Supp. 743 (D. Conn.; 1972), affirmed, 409 U.S. 972 (1972) had no such power. And they ignore the fact that the board in *Salyer, supra,* which had the power to levy and collect charges was found not subject to one person-one vote. What defendants ignore, in summary, is the established proposition that the nature of a board is determined by the powers it *has, not* the powers it lacks. (It might be noted again parenthetically that the board is empowered under § 10-51a to compel a town's payment of its assessment by judicial process).

All of the cases thus point the way clearly and unmistakably to a finding that one person-one vote applies to regional school boards in Connecticut and, more especially, to the defendant Board. Of even greater import, however, is the fact that in two recent New England federal cases dealing with regional school boards strikingly similar to the defendant Board and the other Connecticut regional school boards, the courts have held precisely that.

Leopold v. *Young,* 340 F. Supp. 1014 (D. Vt.; 1972) involved apportionment of the school board of a four-town voluntarily-established high school district, with population disparities ranging from 16.9% to 35.5%, but with each town having three members on the twelve-member elected school board. Like the situation in the case at bar, formation of the district under Vermont law required the approval of the voters of each constituent town. Like the situation in Connecticut, the apportionment of school board members had to be agreed upon by the constituent towns.[1] The court held in *Leopold* that one person-one vote applies to the election of the regional high school board, a decision that it felt flowed ineluctably from the Supreme Court's decision in *Hadley, supra.* And it was of no moment to the court in *Leopold*—as it should be of no moment to this Court—that the district was established voluntarily by the towns. For as the Supreme Court held in *Lucas* v. *Forty-fourth General Assembly of Colorado,* 377 U.S. 713, 736-737 (1964):

> An individual's constitutionally protected right to cast an equally weighted vote cannot be denied even by a vote of a majority of a State's electorate, if the apportionment scheme adopted by the voters fails to measure up to the requirements of the Equal Protection Clause. Manifestly, the fact that an apportionment plan is adopted in a popular referendum is insufficient to sustain its constitutionality or to induce a court of equity to refuse to act. As stated by this Court in West Virginia State Bd. of Educ. v. Barnette, 319 U.S. 624, 638 [63 S. Ct. 1178, 1185, 87 L.Ed. 1628,] "One's right to life, liberty, property . . . and other

[1] Under the 1951 statutes the apportionment in Connecticut was determined by majority vote of a joint meeting of the constituent towns' school boards after the district had been established. 1951 Public Act No. 262, § 9. Under existing Connecticut law, board apportionment is one of the matters comprising the report of the temporary regional school study committee, and is voted upon by the proposed constituent towns as part of the referendum item as to establishment of the district. General Statutes § 10-43.

> fundamental rights may not be submitted to vote; they depend on the outcome of no elections." A citizen's constitutional rights can hardly be infringed simply because a majority of the people choose that it be. We hold that the fact that a challenged legislative apportionment plan was approved by the electorate is without federal constitutional significance, if the scheme adopted fails to satisfy the basic requirements of the Equal Protection Clause . . .

In reaching its decision, the Court in *Leopold* reasoned persuasively as follows:

> Since school boards of union school districts perform governmental functions and since those Shelburne and Williston residents who desire full representation on the District school board cannot be deprived of their right to an equal voice in the operation of the District, there can be no constitutionally permissible justification for the malapportionment of the Champlain Valley Union High School District. It may be true that equal representation of the four towns constituting the District induced the smaller towns to participate in the District in the first instance, and may serve some useful purposes. Nevertheless, the Supreme Court cases require that legitimate town interests be safeguarded in some way other than impingement on constitutionally protected rights by way of gross malapportionment. Moreover, these legitimate interests may to some extent be reflected when the "one man-one vote" principle is applied in particular cases, since the Supreme Court has only recently taken the view "that the particular circumstances and need of a local community as a whole may sometimes justify departures from strict equality." Abate v. Mundt, 403 U.S. 182, 185, 91 S. Ct. 1904, 1907, 29 L.Ed. 2d 399 (1971). Here, however, there should be little problem since the proportions involved bear such a clear ratio to one another.

A similar situation prevailed in *Powers* v. *Maine School Administrative District No. 1,* 359 F. Supp. 30 (D. Me. N.D.; 1973). This case involved apportionment of the school board of a five-town voluntarily-established school district. In *Powers* the total population of the district was 14,414; the population of the largest constituent town was 11,452; the school board consisted of 17 members; and the largest town was entitled to only 9 members. Here again, Maine law required the approval of the voters of each constituent town for establishment of the district, including the apportionment on the regional board (in Maine, called the "board of directors"). The Court, again citing *Lucas,* rejected the contention that the voluntary creation of the district exempted its apportionment from the requirements of one person-one vote, and held that one person-one vote applied.

Conclusion

For all the reasons hereinabove set forth, it should be readily apparent that the defendant board is subject to the federal constitutional principle of one person-one vote because of both the nature of the board—its broad powers in an area which is "a vital governmental function"—and its elective status. The Town of New Hartford will equally benefit from vindication of that constitutional principle, for its electors will at long last be ensured the right to elect their fair share of members on the board that governs their children's educational future.

The judgment below should be affirmed.

Respectfully submitted,

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ADDENDUM

CONNECTICUT REGIONAL SCHOOL DISTRICTS

Town	Population 1970 Census	Population July 1, 1972 Estimate	Number of Children in Regional District Schools October 1, 1973	Representatives on Regional District Board
District #1				
Canaan	931	970	40	1
Cornwall	1177	1200	74	1
Kent	1990	2000	92	1
North Canaan	3045	3100	190	1
Salisbury	3573	3600	183	1
Sharon	2491	2300	143	1
District #4				
Chester	2982	3000	323	3
Deep River	3690	3900	393	3
Essex	4911	5100	445	3
District #5				
Bethary	3857	4100	557	3
Orange	13,524	14,000	1840	3
Woodbridge	7673	8000	1014	3
District #6				
Gosnen	1351	1400	220	3
Morris	1609	1700	432	3
Warren	827	920	341	3
District #7				
Barkhamsted	2066	2300	262	2
Colebrook	1020	1000	125	2
New Hartford	3970	4000	495	2
Norfolk	2073	2100	228	2
District #8				
Andover	2099	2100	264	3
Hebron	3815	4300	591	3
Marlborough	2991	3300	363	3
District #9				
Easton	4885	5400	461	4
Redding	5590	6200	493	4
District #10				
Burlington	4070	4300	1240	4
Harwinton	4318	4500	1246	4

Addendum

District #11				
Chaplin	1621	1700	204	3
Hampton	1129	1100	129	3
Scotland	1022	1000	121	3
District #12				
Bridgewater	1277	1400	323	3
Roxbury	1238	1300	268	3
Washington	3121	3200	641	3
District #13				
Durham	4489	4700	1461	4
Middlefield	4132	4200	990	4
District #14				
Bethlehem	1923	2000	502	4
Woodbury	5069	6300	1429	4
District #15				
Middlebury	5542	5800	1203	4
Southbury	7852	6700	1485	4
District #16				
Beacon Falls	3546	3700	946	4
Prospect	6543	6700	1636	4
District #17				
Haddam	4934	5200	1361	6
Killingworth	2435	2800	724	3
District #18				
Lyme	1484	1600	318	2
Old Lyme	4964	5300	1392	7

Addendum

PARTIAL LIST OF POWERS AND DUTIES OF BOARDS OF EDUCATION IN CONNECTICUT

POWER OR DUTY	GENERAL STATUTES §
Maintain good public elementary and secondary schools, implement the educational interests of the state, and provide such other educational activities as in its judgment will best serve the interests of the town.	10-220
Have charge of the schools in the town.	10-220
Make continuous study of the needs for school facilities and of long-term building projects and make recommendations to the town in this regard.	10-220
Have the care, maintenance and operation of the buildings, lands, apparatus and other properties used for school purposes.	10-220
Determine the number, age and qualifications of the pupils to be admitted into each school.	10-220
Employ and dismiss the teachers of the schools subject to the provisions of applicable statutes.	10-220
Designate the schools which will be attended by the various children within the several towns.	10-220
Make such provisions as will enable each child of school age residing in the town of suitable mental and physical condition to attend some public day school for the period required by law.	10-220
Provide for the transportation of children wherever transportation is reasonable and desirable, and for such purpose make contracts	

Addendum

POWER OR DUTY	GENERAL STATUTES §
covering periods of not more than five years.	10-220
Arrange with the board of education of an adjacent town for the instruction therein of such children as can attend school in such adjacent town more conveniently.	10-220
Cause each child between the ages of seven and sixteen living in the town to attend school.	10-220
Secure educational opportunities in another town in accordance with the provisions of the statutes and give all children of the town as nearly equal advantages as may be practicable.	10-220
Perform all acts required of it by the town or necessary to carry into effect the powers and duties imposed upon it by law.	10-220
Prescribe rules for management, studies, classification and discipline of public schools and, subject to the state board of education, the textbooks to be used.	10-221
Make rules for the arrangement, use and safekeeping within its jurisdiction of school libraries and approve books selected therefor.	10-221
Approve plans for schoolhouses and superintend any high or grade school.	10-221
Prepare itemized estimate of cost of maintenance of public schools for ensuing year.	10-222
Expend any monies appropriated by the legislative body of the town at its own discretion.	10-222
Transfer unexpended or uncontracted-for portion of appropriations for school purposes to any other item of its itemized estimate.	10-222
Purchase such books either as texts or supplements and supplies as are necessary to the needs of the town.	10-228

Addendum

POWER OR DUTY	GENERAL STATUTES §
Establish regulations authorizing its administrative staff to suspend pupils to enforce discipline.	10-233
Expel from school any pupil regardless of age who after a full hearing is found guilty of conduct inimical to the best interests of the school.	10-234
Protect employees from financial loss which might arise from suit or claim for damages alleging negligence.	10-235
Establish and maintain a school activity fund to finance the portion of school lunches not provided by the town or to finance part of the cost of driver education courses not provided by the town or to provide for funds of schools and school organizations as it determines.	10-237
Contract with a federal governmental agency for funds to establish a demonstration scholarship program for a period of up to five years.	10-239c
Ascertain the name and age of each child under twenty-one years who resides in town on April 1.	10-249
Pay for transportation of high school students.	10-277
Establish and maintain a program of adult education for at least 150 clock hours per year in towns of 10,000 or more (permissible but not mandatory for towns of less than 10,000 population).	10-69
Establish and maintain summer courses and charge therefor.	10-74a
Identify children requiring special education and provide professional services therefor.	10-75b
Require each child to be vaccinated for smallpox and measles before attending public school.	10-204

Addendum

POWER OR DUTY	GENERAL STATUTES §
Require vaccination for poliomyelitis for each child before attending public school.	10-204a
Appoint (mandatory for towns with over 10,000 population) one or more qualified medical advisors and provide adequate facilities for privacy during health exams and prescribe his functions and duties.	10-205
Require pupil physical examinations once every three years for physical well-being.	10-206
Establish and operate lunch services for school children and employees and charge therefor.	10-215

Court Press Form No. 2-Affidavit.
H.15

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

JOSEPH M. SCOTT, SR.,

Plaintiff-Appellee,

against

NONNEWAUG REGIONAL SCHOOL DISTRICT NO. 14, ET AL.,

Defendants-Appellants.

State of New York,
County of New York,
City of New York—ss.:

DAVID F. WILSON being duly sworn, deposes and says that he is over the age of 18 years. That on the 17th day of April , 1975, he served two copies of the Brief of the Town of New Hartford as Amicus Curiae on -- see attached list

the attorney s for the ~~ex~~ - see attached list
by depositing the same, properly enclosed in a securely sealed post-paid wrapper, in a Branch Post Office regularly maintained by the Government of the United States at 90 Church Street, Borough of Manhattan, City of New York, directed to said attorney s at No. See attached list ( ) N. Y., that being the address designated by t h em for that purpose upon the preceding papers in this action.

David F. Wilson

Sworn to before me this
17th day of April , 1975.

Courtney J. Brown

COURTNEY J. BROWN
Notary Public, State of New York
No. 31-5472920
Qualified in New York County
Commission Expires March 30, 1976

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